



STATE OF INDIANA

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March 14, 2012

John Darrell May
DOC 962364
5501 S. 1100 W
Westville, Indiana 46391

Re: Formal Complaint 12-FC-53; Alleged Violation of the Access to Public Records Act by the Indiana Department of Corrections

Dear Mr. May:

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Correction (“DOC”) violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 *et seq.* Robert Bugher, Chief Counsel, responded on behalf of the DOC. His response is enclosed for your reference.

BACKGROUND

In your formal complaint, you allege that you submitted a written request to the DOC on February 13, 2012 for records related to your classification appeal. As of February 27, 2012, the date you filed your formal complaint with the Public Access Counselor’s Office, you further allege that the DOC has failed to respond to your request in any fashion.

In response to your formal complaint, Mr. Bugher advised that on or about February 2, 2012, you sent to the DOC a request for access to public information. The correspondence was apparently received by the DOC, but was never forwarded to Mr. Hendrix, the intended recipient. The DOC has now provided to you copies of your classification appeal and the DOC’s grievance policy in response to your request.

ANALYSIS

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” *See* I.C. § 5-14-3-1. The DOC is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the DOC’s public

records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. *See* I.C. § 5-14-3-9(b). Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. *See* I.C. § 5-14-3-9(c). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, the DOC acted contrary to section 9 of the APRA when it failed to respond to your request within seven (7) days of its receipt. As the DOC has now provided all records that were responsive to your request, I trust that this is in satisfaction of your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the DOC acted contrary to section 9 of the APRA when it failed to respond to your written request within seven (7) days of its receipt.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is fluid and cursive, with a large initial "J" and a distinct "Hoage" at the end.

Joseph B. Hoage
Public Access Counselor

cc: Robert Bugher